

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Michael J. and Toni K. Schuster,
Appellants,

v.

Clayton County Board of Review,
Appellee.

ORDER

Docket No. 14-22-0006
Parcel No. 30-08-257-003

On January 6, 2015, the above-captioned appeal came on for telephone hearing before the Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2) and Iowa Administrative Code rules 701-71.21(1) et al. Michael J. Schuster was self-represented. Clayton County Attorney Alan Heavens is counsel for the Board of Review. The Appeal Board having reviewed the record, heard the testimony, and being fully advised finds:

Findings of Fact

Michael J. and Toni K. Schuster are the owners of a residentially classified vacant site located at North Third Lane, Guttenberg, Iowa. The site is 0.243 acres.

The Schusters protested their January 1, 2014, assessment of \$58,284 to the Clayton County Board of Review. They asserted the property was inequitably assessed and assessed for more than authorized by law under Iowa Code sections 441.37(1)(a)(1) and (2). The Board of Review granted the petition, in part, added a 25% functional obsolescence adjustment to the site, and thus reduced the value to \$43,713. The Schusters then appealed to this Board asserting the correct fair market value is \$12,850.

The Schusters submitted six properties they considered for their equity claim.

Property Owner & Parcel Number	Assessed Value	Site Size (SF)	AV/SF	Sale Price	Sale Date	Classification
Subject	\$43,713	10,597	\$4.13	N/A	N/A	Residential
Friday 30-08-401-015	\$20,670	9,984	\$2.07	\$62,500	Sep-08	Residential
Schuster 30-08-401-006	\$11,656	5,000	\$2.33	\$80,000	Mar-11	Residential
Pattison 30-08-401-007	\$23,272	10,008	\$2.33	\$146,900	Jan-12	Residential
Kruse 30-08-401-009	\$20,680	10,000	\$2.07	\$176,000	Apr-11	Residential
Lakeside Holding 30-08-181-001	\$69,735	60,331	\$1.16	N/A	N/A	Commercial
Green 30-08-403-009	\$23,312	10,000	\$2.33	\$87,900	Jul-08	Residential

Michael Schuster testified that based on the average per-square-foot value of their comparable properties, the subject property's assessed value should be \$21,724. Lakeside Holding is classified commercial, is improved, and therefore we find it is not a comparable property for an equity analysis.

Further, the Board of Review notes the Schuster, Pattison, Kruse, and Green properties are all improved. (Statement of Position p. 1). The IOWA REAL PROPERTY APPRAISAL MANUAL 2008, 2-4, distinguishes between an improved site and an unimproved site as follows: "When a site is described as 'improved' it means it is used in conjunction with an existing structure and has the necessary site improvements. These site improvements include grading and topsoil, landscaping, trees, and shrubs, etc. An 'unimproved' site will lack some or all these site improvements." Because these properties are improved and the subject is not, we do not consider them sufficiently similar to the subject property for an equity analysis.

Of the comparables submitted by the Schusters, the Friday property is the only vacant, residentially classified lot and appears to be most similar to the subject. This property was sold by the Schusters in 2008 for \$62,500. The sale is not recent and the Schusters did not submit a current estimate of the fair market value to determine an assessment/sales price ratio. Nonetheless, the fact that the Schusters sold a similarly sized lot located on the same street as the subject for over \$60,000 does not support their claim that the subject's fair market value is \$12,850.

The Schusters also submitted a Restricted Appraisal Report from Neil A. Dodgen of Growthland Appraisal, McGregor, Iowa. A Restricted Use appraisal report is for the client use only. (*UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE 2014-2015*, Advisory Opinion 11 p. A22-23). “The reason underlying this use restriction is that the client is assumed to have a sufficient level of knowledge to enable him or her to understand a report of this type. If other users were to be given such an abbreviated report, they could easily misunderstand it and potentially be misled.” (*Id.*; FAQ 264 p. F-125). Dodgen concluded an opinion of value, based on the sales comparison approach, of \$12,850. However, the Board of Review notes that two of the sales considered by Dodgen are unbuildable lots, whereas the subject parcel is a buildable lot. (Statement of Position p. 2). Because of the report type, there is no description of the sales he considered comparable and no explanation of his analysis. As a result, we cannot determine if Dodgen’s conclusion is a reliable and reasonable reflection of the subject property’s fair market value and we give the appraisal no consideration.

Conclusions of Law

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions reflecting market value are to be considered in arriving at market value. § 441.21(1)(b). Conversely, sales of property in abnormal transactions not reflecting market value shall not be taken into account. *Id.*

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shivers*, 257 Iowa 575, 133 N.W.2d 709 (Iowa 1965). The six criteria include evidence showing

“(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination.”

Id. at 711. The *Maxwell* test provides that inequity exists when, after considering the actual and assessed values of comparable properties, the subject property is assessed at a higher proportion of this actual value. *Id.* The *Maxwell* test may have limited applicability now that current Iowa law requires assessments to be at one hundred percent of market value. § 441.21(1). Nevertheless, in some rare instances, the test may be satisfied.

The Schusters offered multiple properties they considered comparable to theirs for an equity analysis. However, only the Friday property was a residentially classified, vacant lot like the subject. Even if one comparable property was sufficient to complete a *Maxwell* sales/assessment ratio analysis, the Schusters did not provide evidence of its actual, current market value and, ultimately, they have not

shown their property is inequitably assessed under the *Maxwell* test. Moreover, the Schusters did not assert that the Assessor failed to uniformly apply an assessing method to similarly situated or comparable properties. For these reasons, the Schusters failed to show their property is inequitably assessed as compared to like properties.

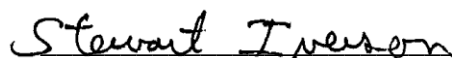
In an appeal alleging the property is assessed for more than the value authorized by law under section 441.37(1)(a)(1)(b), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). The Schusters submitted the Dodgen appraisal. However, because it is a Restricted Use appraisal, which results in limited information and explanation in the report, we find it insufficient to rely on and give it no consideration. Further, the 2008 sale of the Friday property indicates the subject property's current assessment is not in excess of its fair market value.

THE APPEAL BOARD ORDERS the 2014 assessment of Michael J. and Toni K. Schuster's property located at North Third Lane, Guttenberg, Iowa, and identified as parcel number 080/05231-000-000 set by the Clayton County Board of Review, is affirmed.

Dated this 2nd day of February, 2015.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair

Cc:

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